No. S017727

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA
IN BANK

IN RE DAVID L. MURTISHAW
ON
HABEAS CORPUS

Petition for writ of habeas corpus DENIED in its entirety on grounds that it fails to allege ineffective assistance or new evidence that undermines confidence in the outcome. (Strickland v. Washington (1984) 466 U.S. 669, 689-691; United States v. Cronic (1984) 466 U.S. 648, 659; People v. Fosselman (1983) 33 Cal.3d 572, 581; In re Swain (1949) 34 Cal.2d 300, 304.) Claims that the trial court improperly denied funds for psychiatric assistance; that the guilt jury must unanimously agree on theories of first degree murder; and that the penalty jury received an erroneous unanimity instruction are denied on the independent additional ground that they were waived by failure to raise them on direct appeal. (In

re Walker (1974) 10 Cal.3d 764, 773; In re Dixon (1953) 41 Cal.2d 756, 759.) All claims related to the guilt and special circumstance judgments are denied on the independent additional ground that the petition fails to justify the delay in raising them. (In re Ronald E. (1977) 19 Cal.3d 315, 321-322; People v. Jackson (1973) 10 Cal.3d 265, 268.)

Mosk, J. and Broussard, J. are of the opinion an order to show cause should issue.

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Acting Chief Justice